



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on June 5, 2007

Date of Meeting: April 10, 2007

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:32 p.m. on Tuesday, April 10, 2007 all members having been notified of the time and place thereof.

1. ROLL CALL

The meeting was called to order by Mayor Walkup and upon roll call, those present and absent were:

Present:

José J. Ibarra	Council Member Ward 1
Carol W. West	Council Member Ward 2
Karin Uhlich	Council Member Ward 3
Shirley C. Scott	Vice Mayor, Council Member Ward 4
Nina J. Trasoff	Council Member Ward 6
Robert E. Walkup	Mayor

Absent/Excused

Steve Leal	Council Member Ward 5
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Staff Members Present:

Mike Hein	City Manager
Michael Rankin	City Attorney
Kathleen S. Detrick	City Clerk
Mike Letcher	Deputy City Manager

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Roger Phillips, City Clerk's Office, after which the Pledge of Allegiance was presented by the entire assembly.

Presentations

- a. Mayor Walkup proclaimed April 9 to April 15, 2007, to be "Community Development Week". Leslie Hunter, Community Services Department Administrator, accepted the proclamation.

Kathleen S. Detrick, City Clerk, announced Susie Rogers would be assisting with anyone in the audience needing Spanish language translation for items listed on the agenda.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 193 dated April 10, 2007, would be received into and made a part of the record. He also announced this was the time scheduled to allow members of the Council to report on current events and asked if there were any reports.

- a. Council Member West announced on April 12, 2007, the Ward 2 Council Office would be holding a Town Hall on West Nile Virus Prevention at Eastside City Hall and the public was invited. Council Member West also announced that on April 21, 2007, she was leading a Rio Nuevo Tour.

4. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 194, dated April 10, 2007, would be received into and made a part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

No report was given.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 198, dated April 10, 2007, would be received into and made a part of the record. He asked the City Clerk to read the Liquor License Agenda.

b. Liquor License Applications

New License

1. Embassy Suites Hotel - Tucson International Airport, Ward 5
7051 S. Tucson Blvd.
Applicant: Paul Lewis Gibson
Series 11, City 14-07
Action must be taken by: April 20, 2007
Staff has indicated the applicant is in compliance with city requirements.
2. Circle K Store # Kino, Ward 5
N of NWC Benson Hwy. & Kino Pkwy.
Applicant: Kim Kenneth Kwiatkowski
Series 10, City 17-07
Action must be taken by: April 20, 2007
Development Services Department has indicated the applicant is not in compliance with city requirements.
Continued to April 17, 2007, unless deactivation notice is received by the City Clerk's Office.
3. Circle K Store # 6th Ave., Ward 5
SEC I-10 & 6th Ave.
Applicant: Kim Kenneth Kwiatkowski
Series 10, City 18-07
Action must be taken by: April 21, 2007
Development Services Department has indicated the applicant is not in compliance with city requirements.
Continued to April 17, 2007, unless deactivation notice is received by the City Clerk's Office.

Person Transfer(s)

4. Best Western Executive Inn, Ward 3
333 W. Drachman St.
Applicant: Norma Jene Robinett
Series 6, City 15-07
Action must be taken by: April 28, 2007
Staff has indicated the applicant is in compliance with city requirements.

Person/Location Transfer(s)

5. Cata Vinos, Ward 3
3063 N. Alvernon Way
Applicant: Yvonne Kay Foucher
Series 7, City 16-07
Action must be taken by: April 28, 2007
Staff has indicated the applicant is in compliance with city requirements.
Public Opinion: Written Arguments Opposed Filed
Considered Separately.

c. Special Event(s)

1. Comité de Festividades Mexicanas, Ward 1
3700 S. La Cholla Blvd.
Applicant: Mercedes M. Guerrero
City T13-07
Date of Event: May 5, 2007 - May 6, 2007
(To Celebrate Cinco de Mayo)
Staff has indicated the applicant is in compliance with city requirements.
Public Opinion: Written Argument Opposed Filed
Considered Separately.
2. Satori, Inc., Ward 3
3727 N. 1st Ave.
Applicant: Phyllis L. Gold
City T21-07
Date of Event: April 21, 2007
(Auction/Fundraiser)
Staff has indicated the applicant is in compliance with city requirements.
3. Tucson International Mariachi Conference, Inc., Ward 6
900 S. Randolph Way
Applicant: Carlos Dejud
City T22-07
Date of Event: April 28, 2007
(To raise Funds for La Frontera Center, Inc.)
Staff has indicated the applicant is in compliance with city requirements.
4. Tucson Pima Arts Council's Art Works Academy, Ward 1
140 N. Main Ave.
Applicant: Roberto Bedoya
City T26-07
Date of Event: April 13, 2007
(Fundraiser for Art Works Academy)
Staff has indicated the applicant is in compliance with city requirements.

5. Amigos De Las Americas, Ward 6
1303 E. University Blvd.
Applicant: Michele Anzalone Grantham
City T27-07
Date of Event: April 15, 2007
(Fundraiser for Service Trips to Latin America)
Staff has indicated the applicant is in compliance with city requirements.
6. Escaramuza “Flor de Primavera”, Ward 5
4823 S. 6th Ave.
Applicant: Francisco J. Celaya
City T31-07
Date of Event: April 21, 2007
(Entertainment & Educate about Mexican Culture)
Staff has indicated the applicant is in compliance with city requirements.

d. Agent Change

NOTE: There were no agent changes scheduled for this meeting.

Kathleen S. Detrick, City Clerk, announced that the City Clerk had received written notice from the applicant that they intended to withdraw Liquor License applications 5b2 and 5b3. However the deactivation notice had not been received by the City Clerk. Therefore, it was recommended that the applications be continued to April 17. The applications would be removed from the agenda if the deactivation notice was filed with the City Clerk prior to that date.

It was moved by Vice Mayor Scott, duly seconded, and carried by a voice of 6 to 0 (Council Member Leal absent/excused) to forward applications 5b1, 5b4 and 5c2 through 6 to the Arizona State Liquor Board with a recommendation of approval and to continue items 5b2 and 5b3 to the meeting of April 17, 2007, unless the deactivation notice had been filed with City Clerk's office.

5. LIQUOR LICENSE APPLICATIONS

b. Liquor License Applications

Person/Location Transfer(s)

5. Cata Vinos, Ward 3
3063 N. Alvernon Way
Applicant: Yvonne Kay Foucher
Series 7, City 16-07
Action must be taken by: April 28, 2007

Staff has indicated the applicant is in compliance with city requirements.
Public Opinion: Written Arguments Opposed Filed

Kathleen S. Detrick, City Clerk, announced the item to be considered separately was Item 5b5, a request for a person transfer for the Cata Vinos Restaurant.

Council Member Uhlich asked the applicant, Yvonne Kay Foucher, to come forward.

Council Member Uhlich asked if there were any protestors present and received no reply.

Council Member Uhlich said this was a Series 7 application, which included beer and wine and allowed tasting at the site. There were a couple of issues raised by the neighborhoods in relation to the request. She said what their office ascertained, was the neighborhood directly hosting that site had expressed no opposition to the request, but neighborhoods further out expressed opposition.

Yvonne Kay Foucher, the applicant, said she felt her business would be an enhancement to that area, especially with the new road improvements to Alvernon.

Council Member Uhlich said she met with the neighborhoods and applicant and appreciated the applicant's commitment made to that area. The area is an area targeted with methamphetamine and other neighborhood stress. She said she was hearing from the applicant, that if the State Liquor Board approved the license, she would be proactive as a partner in those efforts and there certainly was a need for that, and although she did not feel comfortable supporting the application, she would forward a neutral recommendation to the board.

It was moved by Council Member Uhlich, duly seconded, and carried by a voice of 6 to 0 (Council Member Leal absent/excused) to forward application 5b5 to the Arizona State Liquor Board with a neutral recommendation.

5. LIQUOR LICENSE APPLICATIONS

c. Special Event(s)

1. Comité de Festividades Mexicanas, Ward 1
3700 S. La Cholla Blvd.
Applicant: Mercedes M. Guerrero
City T13-07
Date of Event: May 5, 2007 - May 6, 2007
(To Celebrate Cinco de Mayo)
Staff has indicated the applicant is in compliance with city requirements.
Public Opinion: Written Argument Opposed Filed

Kathleen S. Detrick, City Clerk, announced the second item to be considered separately was Item 5c1, a request for a special event for the Comité de Festividades Mexicanas Restaurant.

Council Member Ibarra asked if anyone wanted to protest and received no reply.

It was moved by Council Member Ibarra, duly seconded, and carried by a voice of 6 to 0 (Council Member Leal absent/excused) to forward application 5c1 to the Arizona State Liquor Board with a recommendation of approval.

6. CALL TO THE AUDIENCE

Mayor Walkup announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except for any items scheduled for a public hearing. Speakers would be limited to three-minute presentations.

- a. Deborah Harvey spoke about Information and Referral Services and requested that their funding be preserved.
- b. Francesca Jarvis spoke about Information and Referral Services and requested that their funding be preserved.
- c. Dorothy Jill Moreno spoke about the Compensation Plan and stated that she had hoped her dispute to the plan would have been heard.
- d. Ronald Manzi requested that the City remove the parking spots that were created on Broadway and Congress streets.
- e. Michael Toney spoke about funding for downtown projects and the proposed arena.
- f. Sharon Boose spoke about intersections with traffic signals that do not have left turn arrows and wanted to know if they would be replaced.
- g. Joe Sweeney spoke about illegal immigration.
- h. Laura Leighton spoke about illegal immigration and bills that have been introduced in the state legislature.
- i. James Davis spoke about a petition he had created regarding his grievances and disputes with particular County and City employees.
- j. Aindrea McCammon spoke about Information and Referral Services and requested that their funding be preserved.

- k. Krishta Roberson spoke about Information and Referral Services and requested that their funding be preserved.
- l. Sarah Leahy spoke about Information and Referral Services and requested that their funding be preserved.

7. CONSENT AGENDA ITEMS A THROUGH D

Mayor Walkup announced the reports and recommendations from the City Manager on the Consent Agenda Items would be received into and made a part of the record. He asked the City Clerk to read the Consent Agenda.

A. BOARDS, COMMITTEES, AND COMMISSIONS: CREATING THE GRANT ROAD CORRIDOR PLAN TASK FORCE

- 1. Report from City Manager APRIL10-07-196 WARDS 2, 3, AND 6
- 2. Resolution No. 20632 relating to Boards and Commissions; creating the Grant Road Corridor Planning Task Force; and declaring an emergency.

B. INTERGOVERNMENTAL AGREEMENT AND LOAN REPAYMENT AGREEMENT: WITH THE STATE OF ARIZONA FOR ROADWAY IMPROVEMENTS ALONG MOUNTAIN AVENUE FROM ROGER ROAD TO FORT LOWELL ROAD

- 1. Report from City Manager APRIL10-07-192 WARD 3
- 2. Resolution No. 20633 relating to Intergovernmental Agreements; approving and authorizing the Intergovernmental Agreement between the City of Tucson and the State of Arizona for federal funds for construction of Mountain Avenue between Roger Road and Ft. Lowell Road and the Loan Repayment Agreement with the State of Arizona Transportation Board for repayment of the Highway Expansion and Extension Loan Program (HELP) Loan No. QTUC4P07U; and declaring an emergency.

C. INTERGOVERNMENTAL AGREEMENT: WITH THE REGIONAL TRANSPORTATION AUTHORITY FOR THE DOWNTOWN/UNIVERSITY HIGH-CAPACITY TRANSIT (STREETCAR)

- 1. Report from City Manager APRIL10-07-191 CITY-WIDE
- 2. Resolution No. 20634 relating to Intergovernmental Agreements; approving and authorizing execution of an Intergovernmental Agreement (IGA) between the City of Tucson and the Regional Transportation Authority of Pima County (RTA) for Pre-design, Design, and

Construction of RTA Project 50, Downtown/University High-Capacity Transit (Streetcar); and declaring an emergency.

D. APPROVAL OF MINUTES

1. Report from City Manager APRIL10-07-199 CITY-WIDE
2. Approval of minutes for the regular meeting of the Mayor and Council held on March 6, 2007.

It was moved by Vice Mayor Scott, duly seconded, that Consent Agenda Items A through D, be passed and adopted and the proper action taken.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Uhlich, and Trasoff;
Vice Mayor Scott and Mayor Walkup

Nay: None

Absent/Excused Council Member Leal

Consent Agenda Items A through D, were declared passed and adopted by a roll call vote of 6 to 0.

8. PUBLIC HEARING: ZONING (C9-01-19) CRETCHER DESIGNS LLC – OLD SPANISH TRAIL, SR TO C-1, TIME EXTENSION, CHANGE OF CONDITIONS, AND CHANGE OF PRELIMINARY DEVELOPMENT PLAN

Mayor Walkup announced City Manager's communication number 197, dated April 10, 2007, would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing on a request for changes regarding property located northwest corner of Old Spanish Trail and Harrison Road. Staff recommends approval subject to certain conditions. Mayor Walkup asked if the applicant or representative was present and if they were aware of and agreeable to the proposed requirements.

Chuck Martin, Rick Engineering, stated he was agreeable with the proposal.

Mayor Walkup announced that the hearing was scheduled to last for no more than one hour and speakers would be limited to five-minute presentations and asked if there were any cards. There were none. He asked if there was anybody that would like to come forward regarding this subject. There was no one.

It was moved by Vice Mayor Scott, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Leal absent/excused) to close the public hearing.

Council Member West stated this particular item was a time extension. It was going to be part of a shopping center and now it would be a daycare center which was needed in this part of town.

It was moved by Council Member West, duly seconded, to approve the request as recommended by staff.

Motion passed by a vote of 6 to 0 (Council Member Leal absent/excused).

9. PUBLIC HEARING: TUCSON CODE – AMENDING (CHAPTERS 23 AND 23A) THE *LAND USE CODE* AND THE *DEVELOPMENT COMPLIANCE CODE*; RELATING TO FOOD SERVICE AND SPIRITUOUS LIQUOR IN THE C-1 ZONE

Mayor Walkup announced City Manager's communication number 200, dated April 10, 2007, would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing on an amendment to the *Land Use Code* and the *Development Compliance Code*. The public hearing was scheduled to last no more than one hour and speakers would be limited to five-minute presentations. He asked speakers to come forward when he called their name.

Tracy Williams, on behalf of the Neighborhood Infill Coalition, expressed amendments to the *Land Use Code* must be done with great care to address the abused distribution of liquor and alcohol in C-1 zones and fully examined both sides of that issue. Irresponsible drinking caused deadly auto accidents, fueled domestic violence and child abuse and could potentially ruin the peace and quiet of well established neighborhoods. For those reasons, the City had the authority to pass clearly defined regulations. The neighbors respectfully asked the Mayor and Council to include accessible and transparent protections into the ordinance. They were asking them to support the mitigation plan requirement that addresses the impact of noise, lighting, and traffic. They would like other elements of concerns added such as, parking, loading zones, garbage pickup, loitering, and rude behaviors. She said a meaningful mitigation plan could only be accomplished if neighbors who were directly affected were included in an organized process of writing that mitigation plan. First, neighbors should receive clearly written notification in a timely manner. Second, they would like an opportunity to meet with Development Service and Planning staff, along with the applicant business owner to discuss the issues and write a mitigation plan. Neighbors were the true stakeholders and they were invested in preserving what they value in their neighborhoods. She thanked Mayor and Council for their service and commitment to their community.

Ann Stevenson, President of Udall Park Neighborhood Association, said she agreed with what Tracy Williams said. She also had people come to her with concerns over the neighborhood having the ability to review mitigation plans prior to the approval by Development Services. She felt the neighborhood should have more input into the mitigation and would like to be included in the meetings. She said she did not feel anyone would object and it would actually speed things up for everyone. She said she had read the Land Use amendment and on page 4, Sections J and K, she noticed that the alcohol beverage service that was provided outdoors had to be a minimum of one hundred feet from the residentially zoned properties or separated by a building from the adjacent residential zoned property. She said it did not state, for instance an alley, which would be seventeen to twenty-two feet should not be included in that hundred feet, but in Section K, it stated it would exclude the public right of way. She said she would like to see that included and they should not have to sacrifice that amount of space the way it was written now and it would actually give the residents a little bit more of a barrier.

Mayor Walkup asked if anyone else wanted to speak at that time. There was no one.

It was moved by Vice Mayor Scott, duly seconded, and carried by a voice vote of 6 to 0 (Council Member Leal absent/excused) to close the public hearing.

Council Member West questioned the public right-of-way discrepancy pointed out by Ann Stevenson and asked the Director of Urban Planning, about the fact that the alley did not count into the one hundred feet and then in the next section it did.

Albert Elias, Director of Urban Planning and Design, responded that he was under the impression that the public right-of-way was excluded from that measurement.

Council Member West asked if they could be sure that this was amended or made very clear regarding the public right-of-way.

Mike Rankin, City Attorney, stated if there was a motion to approve this and give specific direction that any necessary amendments to make it clear that the public right-of-way would be excluded then they would go through and make sure that was the case.

Council Member Uhlich asked if the neighborhoods would have the opportunity to ensure that their feedback had been communicated to Development Services.

Mr. Elias explained the process; first, the applicant has a pre-application meeting with staff dealing with the process so it is clear for the applicant. The next step is meeting with the neighborhood. At every point in the process interested parties can get involved. Staff encourages this participation.

Council Member Uhlich asked if the applicant must include in the transmittal to Development Services Director any and all feedback received from the neighborhood in regards to the mitigation plan.

Mr. Elias replied yes and said they want applicants to document that information as part of their submittal material.

Mr. Rankin pointed out that there was a twenty day comment period and those comments would be directed and received by Development Services.

It was moved by Council Member West, duly seconded, to pass and adopt Ordinance 10387, with an amendment to the ordinance to exclude the right-of-way from the one hundred feet separation requirements calculation.

Mayor Walkup asked the City Clerk to read Ordinance 10387 by number and title only.

Ordinance No. 10387 relating to planning and zoning, amending the Tucson Code, Chapter 23, *Land Use Code*, Article II, Zones; Division 5, Commercial Zones, Section 2.5.3.3, Special Exception Land Uses, and Section 2.5.3.4, Secondary Land Uses; Article III, Development Regulations, Division 5, Performance Criteria, Section 3.5.4.7, Sale of Spirituous Liquor in Conjunction with Food Service Use; Article VI, Definitions, Division 2, Listing of Words and Terms, Section 6.2.18, Definitions – R, Restaurant; Amending Chapter 23A, *Development Compliance Code*, Article II, Review Procedures, Division 3, Special Zoning Review-Full Notice Procedure, Section 23A-51, DSD Full Notice Procedure and Section 23A-54, Conditional Use: Suspension or Termination of Designated Permitted, Secondary and Special Exception Uses; Clarifying the allowance of alcoholic beverage service; and setting an effective date.

Kathleen S. Detrick, City Clerk, stated before the roll call vote, she needed to know which section was going to be amended.

Mr. Rankin stated he would make sure all references to separation requirements have the exclusion for the right-of-way.

Upon roll call, the results were:

Aye:	Council Members Ibarra, West, Uhlich, and Trasoff; Vice Mayor Scott and Mayor Walkup
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Nay:	None
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Absent/Excused	Council Member Leal
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Ordinance 10387 was declared passed and adopted by a roll call vote of 6 to 0.

10. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 195, dated April 10, 2007, would be received into and made a part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Council Member Trasoff, duly seconded, and carried by a voice of 6 to 0 (Council Member Leal absent/excused) to reappoint Margaret Joplin to the Design Review Board in the category of Registered Landscape Architect; reappoint Carol J. Maywood and Robert Brisley to the Fort Lowell Historic Zone Advisory Board in the category of Resident; and appoint William Stein to the Veterans' Affairs Committee representing Disabled American Veteran's Auxiliary Cactus #2.

Mayor Walkup asked if there were any other personal appointments to be made. There were none.

11. ADJOURNMENT 6:38 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, April 17, 2007, at 5:30 p.m. in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 10th day of April 2007, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

KSD:eg:ds